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Withholding of Income Tax in Mexican Labor Awards and Rulings

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Recently, case decision PR.P.T.CS.J/6 L (12th) was published under the title: "WITHHOLDING OF INCOME TAX (ISR) BY EMPLOYERS. AS A MATTER OF PUBLIC ORDER, THE FAILURE TO ADDRESS IT IN A LABOR PROCEEDING MAY BE CHALLENGED IN A SUBSEQUENT DIRECT AMPARO ACTION, EVEN WHEN A LIQUIDATED AWARD EXISTS IN A PRIOR DECISION AND NO CHALLENGE WAS PREVIOUSLY FILED," issued by the Regional Plenary Court for Criminal and Labor Matters of the Central-Southern Region of the Mexican Federal Judiciary. The decision clarifies a practical issue that frequently arises during the enforcement stage of Mexican labor awards and rulings: must a labor authority expressly order the employer to withhold income tax from the amounts awarded to the employee?

In this decision, the Regional Plenary Court held that Mexican labor boards and labor courts are not required to expressly state in the award or ruling that the employer must withhold income tax, since the labor ruling is limited to determining the employment-related amounts owed to the employee, whereas the withholding obligation arises from a separate body of Mexican tax law and is considered a matter of public order. Accordingly, once the awarded amount has been determined, the employer must analyze the nature of each payment item, calculate the applicable withholding, remit the corresponding amount to the Mexican tax authorities, and document the payment in accordance with applicable Mexican tax provisions.

In conclusion, the employer must pay the employee the corresponding net amount after making all legally required withholdings, issue the applicable tax receipt, and provide documentation clearly identifying the gross amount awarded, the amount withheld, and the net amount paid, regardless of whether such obligation was expressly included in the relevant labor award or ruling. Conversely, if the employee believes that the withholding was improper or excessive, the dispute falls within the scope of Mexican tax law rather than labor law. Therefore, such should not be resolved through a new determination by the labor courts.

As a Regional Plenary Court precedent within the Mexican federal judicial system, this decision is binding on courts within certain states of Mexico. Although it is not formally binding on courts in other states, it constitutes a highly persuasive authority that may be adopted and ultimately confirmed in future cases involving similar issues.